IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 152 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT

Versus

PATEL BABUBHAI AMICHANDBHAI

Appearance:

1. Criminal Appeal No. 152 of 1992

PUBLIC PROSECUTOR for Petitioner No. 1

MR AM RAVAL for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 13/08/2001

ORAL JUDGEMENT

State of Gujarat has challenged in this appeal the judgement and order dated 21st October, 1991 passed by the learned Second Joint Judicial Magistrate, First Class, Himmatnagar in Criminal case No. 2398/1988,

whereby he discharged the accused for the offences under Sections 7 and 16 of the Prevention of Food Adulteration Act, for which he was charged, on the ground of invalid sanction to prosecute accused for the said offences.

Learned APP Shri Mankad has relied upon the decision of the Hon'ble Supreme Court in case of Suresh H. Rajput and others Vs. Bhartiben Pravinbhai Soni and ors. reported in 1996 (7) SCC 199, wherein the Hon'ble Supreme Court held that the consent to prosecute the accused was valid. The aforesaid judgement applies in this case with full force. Therefore, the impugned order of discharge was required to be set aside and it must be held that the learned Judge was wrong in discharging the accused on the ground that sanction was not valid. However, in view of the fact that the offence is alleged to have taken place on 2.7.1988 and considering the other peculiar facts and circumstances of the case, I am not inclined to interfere with the order of discharge passed by the trial Court in this appeal. Accordingly, with these observations, this appeal is disposed of.

(B.J.Shethna, J.)

*/Mohandas